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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,130	01/09/2001	Benjamin Englander	P/1123-53	6441

2352 7590 05/15/2002

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NEW YORK, NY 100368403

EXAMINER

NGUYEN, THONG Q

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 05/15/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,130

Applicant(s)

ENGLANDER, BENJAMIN

Examiner

Thong Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2001 and 18 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 29 January 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/18/2002 has been entered.

Response to Amendment

2. The present Office action is made in response to the request for continued examination (Paper No. 11) filed on 04/29/2002 and the Amendment (Paper No. 9) filed on 01/29/2002.

Drawings

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 01/29/2002 has been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the

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treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

5. Claims 1-2, 4-6 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmidt et al (U.S. Patent No. 6,293,679).

Schmidt et al disclose an extended field-of-view mirror which is located on each of the front fender of a school bus via a connecting system comprising a member for attaching the mirror to a mirror pole and a mounting element for mounting the pole to the front fender of the vehicle. See figure 1. The mirror can have an ellipsoidal shape and configured as a convex, generally dome shaped and contiguous mirror surface (20). A portion of the surface (20) which is less than one-third of the surface is covered by an opaque band (22) having an opaque surface coating (28) which opaque band is generally extends from the perimeter edge (24). See Schmidt et al, columns 1-3 and figs. 1-4. See **In re Wertheim**, 541 F. 2d 257, 191 USPQ 90 (CCPA 1976), "the disclosure in the prior art of any value within a claimed range is an anticipation of that range." See also, **Titanium Metals Corporation of America**, 227 USPQ 773 (Fed. Cir. 1985), **In re Petering**, 301 F. 2d 676, 133 USPQ 275 (CCPA 1962). With regard to the feature concerning the formation of the coating band as recited in claim 4, such a feature is directed to a method step and thus is not given a patentable weight.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-2, 4-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al (U.S. Patent No. 5,589,984) in view of Schmidt et al (U.S. Patent No. 4,938,578, of record).

Schmidt et al disclose an extended field-of-view mirror. The mirror can have an oval ellipsoidal shape and configured as a convex, generally dome shaped and contiguous mirror surface (20). A portion of the surface (20) which is less than one-third of the surface is covered by an opaque band (70) which opaque band is generally extends from the perimeter edge. See Schmidt et al, columns 1-3 and fig. 2, for example. See **In re Wertheim**, 541 F. 2d 257, 191 USPQ 90 (CCPA 1976), "the disclosure in the prior art of any value within a claimed range is an anticipation of that range." See also, **Titanium Metals Corporation of America**, 227 USPQ 773 (Fed. Cir. 1985), **In re Petering**, 301 F. 2d 676, 133 USPQ 275 (CCPA 1962). With regard to the feature concerning the formation of the coating band as recited in claim 4, such a feature is directed to a method step and thus is not given a patentable weight.

In column 2, lines 3+ and column 3, lines 55+, Schmidt et al disclose that their mirror can install to a school bus; however, they do not clearly state about the mechanism for installing the oval mirror system to the fender of a school bus. However, the installation of an oval mirror to the fender of a school bus via a

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mechanism is clearly disclosed in the art as can be seen in the Patent '578 issued to the same inventors. For instance, in columns 2-4 and figs. 1 and 7-8, Schmidt et al teach a mechanism having a mirror pole (18), a mirror element (22) for affixing the mirror (16) to the mirror pole, and a mirror mount (24) for connecting the mirror pole to the front fender of the school bus. Thus, it would have been obvious to one skilled in the art at the time the invention was made to utilize the mechanism as provided by Schmidt et al '578 for installing the mirror system of Schmidt et al '984 to the front fender of a school bus for the purpose of providing a wide field-of-view to the bus driver.

2 4 1/3 1
3

8. Claims 1-2, 4-6 and 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Stout (U.S. Patent No. 4,822,157) in view of Schmidt et al (U.S. Patent No. 5,589,984).

Stout discloses a mirror assembly for use with a school bus wherein the mirror assembly is attached to a front fender of the bus for the purpose of providing the driver of the bus visual access to the area in front of the school bus as well as to the sides of the bus. The mirror assembly as stated at column 2 and shown in figure 1 comprises a mirror element (26) secured to a mirror pole (20) via a securing means (48, 50, 52). The mirror pole (20) in turn is inherently secured to the front fender of the school bus. See column 3 and fig. 1. As such, the mirror assembly provided by Stout meets all of the limitations of the device as claimed except a portion of the mirror element being treated for reducing glare.

The treatment on a portion of the mirror element for the purpose of reducing glare is known to one skilled in the art as can be seen in the optical system provided by Schmidt et al. In particular, Schmidt et al disclose Schmidt et al disclose an extended field-of-view mirror. The mirror can have an oval ellipsoidal shape and configured as a convex, generally dome shaped and contiguous mirror surface (20). A portion of the surface (20) which is less than one-third of the surface is covered by an opaque band (70) which opaque band is generally extends from the perimeter edge. See Schmidt et al, columns 1-3 and fig. 2, for example. See **In re Wertheim**, 541 F. 2d 257, 191 USPQ 90 (CCPA 1976), "the disclosure in the prior art of any value within a claimed range is an anticipation of that range." See also, **Titanium Metals Corporation of America**, 227 USPQ 773 (Fed. Cir. 1985), **In re Petering**, 301 F. 2d 676, 133 USPQ 275 (CCPA 1962). With regard to the feature concerning the formation of the coating band as recited in claim 4, such a feature is directed to a method step and thus is not given a patentable weight.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the mirror assembly as provided by Stout by making an anti-glare portion taken along a vertical direction of the mirror element as suggested by Schmidt et al for the purpose of eliminating obscuring light rays and glare which may interfere with the driver's perception while looking into the mirror assembly.

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8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stout in view of Schmidt et al as applied to claim 1 above, and further in view of Horton (U.S. Patent No. 1,811,823, of record).

The combined product as provided by Stout and Schmidt et al as described in the paragraph 7) above meets all of the limitations of the device as claimed in the present claim 3 except the feature that the opaque band is located in a position in spaced relation to and not in contact with the peripheral edge of the mirror.

However, such an arrangement of the opaque band as claimed is also disclosed in the art as can be seen in the mirror system provided by Horton. In particular, Horton discloses a rearview mirror and also teaches that a portion of the mirror element is treated for reducing glare wherein the portion being treated to reduce glare as taught by Horton is in spaced relation and is not in contact with the peripheral edge of the mirror element. See Horton, columns 1-2 and fig. 1. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the mirror assembly as provided by Stout and Schmidt et al by making an anti-glare portion taken along a vertical direction of the mirror element and locating in a position which is in spaced relation and is not in contact with the peripheral edge of the mirror element as suggested by Horton for the purpose of eliminating obscuring light rays and glare which may interfere with the driver's perception while looking into the mirror assembly.

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9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stout in view of Schmidt et al as applied to claim 1 above with or without Hasuo (Japanese reference No. 62-192720).

The combined product as provided by Stout and Schmidt et al as described above meets all of the features recited in present claim 7 except the treated portion is located on one side relative to the minor axis of the mirror surface. However, such an arrangement of a treated portion with respect to the area of the mirror surface as claimed is merely that of a preferred embodiment and no criticality has been disclosed. The support for this conclusion is found in the present specification in which applicant has taught that the treated portion is extended on both side of the minor surface as can be seen in the embodiment described at pages 4-5 and illustrated in present figure 2A-2C. Furthermore, the use of an anti-glare portion which is located on one side of a mirror surface relative to a minor axis of the mirror surface is suggested to one skilled in the art as can be seen in the anti-glare system provided by Hasuo. See pages 150-152 and figure 5. Thus, absent any showing of criticality, it would have been obvious to one skilled in the art at the time the invention was made to use a portion on just one side of the minor axis of a mirror surface which portion is necessary to the driver's field of view as a treated portion for reducing glare and simultaneously reducing the manufacture cost.

Response to Arguments

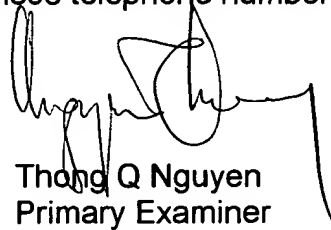
10. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is 703 308 4814. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on 703 308 1687. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 7724 for regular communications and 703 308 7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.



Thong Q Nguyen
Primary Examiner
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May 9, 2002